

USSN: 10/772,768
Filing Date: February 4, 2004

REMARKS

In the September 28, 2005 Office Action, the Examiner imposed a restriction as between Group I, Claims 1-5, drawn to one or more, or a population of CD4+ suppressor T cells, and Group II, Claims 1-3 and 6, drawn to one or more, or a population of CD8+ suppressor T cells.

Applicant hereby elects Group I with traverse.

The present application is a continuation of Patent Application No. 09/833,526 which issued on July 6, 2004 as U.S. Patent No. 6,759,035. That patent issued with five claims. Claim 1 of '035 patent is to a method for decreasing graft rejection of a solid organ by a recipient. The method comprises five steps (a) through (e). Dependent Claims 3 and 4 call for PBMC from the recipient that are CD4+ T cells or naïve CD4+ T cells. Claim 5 calls for the PBMC from the recipient to be enriched for CD8+ T cells.

The pending claims are directed to one or more suppressor T cells that are made according to at least the first three steps of Claim 1 of the '035 patent. As with the '035 patent, pending Claims 4, 5 and 6 call for PBMCs to be enriched for CD4+ cells, naïve CD4+ cells and CD8+ cells, respectively.

It is submitted that the U.S. Patent and Trademark Office has taken inconsistent positions by allowing the claims of the '035 patent to issue with dependent claims of CD4+ T cells and CD8+ T cells and to then require restriction as between CD4+ T cells and CD8+ T cells in the present application.

According to the foregoing, the restriction should be withdrawn and all of the claims prosecuted together.

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Respectfully submitted,
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